

SUPPORT FOR THE AMENDMENT

Claim 1 has been amended for minor editorial purposes.

Claim 10 is currently added.

Claim 10 is supported by the specification at page 5, lines 1-4, and pages 8-9, Table 1, of the present specification, as originally filed.

No new matter has been added by these amendments.

Upon entry of this amendment, claims 5-10 will be pending in this application.

REQUEST FOR RECONSIDERATION

Election/Restriction Requirement

The present Office Action indicates that because of Applicants' species election, claims 6-8 were prosecuted by the Examiner and claim 5 was withdrawn.

However, such action by the Office appears to be improper, since the method of claim 5 includes the species that Applicants elected for prosecution on the merits. As recited in Applicants' election of September 22, 2005, the composition and *specific* structure of the groups for R¹, R², and R³ are indicated in Table 1 of the present specification.

Further, it is unclear as to what the claims have been restricted to in the present Office Action, since each of claims 6-8 *separately* depend from the method of claim 5, and do not *separately* recite a different species required by the Office or relate to a different method.

Clarification is respectfully requested.

Applicants note that claim 10 has been added, which recites a species of formula (I) and is commensurate with Applicants' election.

Applicants also note that the Office Action Summary and Detailed Action do not indicate that claim 9 is pending. However, claim 9 was added with the Amendment filed September 22, 2005.

Acknowledgment of the same is requested.

Rejection under 35 U.S.C. § 112

The rejection of claims 6-8 under U.S.C. § 112, first paragraph, is respectfully traversed.

The Office asserts that the present specification does not reasonably provide enablement for a method of preventing skin damage, since, *inter alia*, there is no data in the specification to support the asserted utility.

However, Examples 1 and 2 of the present specification, at pages 9-12 demonstrate that when a composition containing diacylglyceryl ether derived from a shark liver oil had been orally administered to HR-1 hairless mice and guinea pigs for two weeks, and then UVE was irradiated, the formation of wrinkled skin and sagging skin or the formation of skin cancer was successfully prevented.

In particular, the Office's attention is directed to the language in the present specification, relating to Example 1, at page 10, line 24 to page 11, line 1:

Based on the test results of Example 1, it was inferred that the feed containing the diacylglyceryl ether-containing composition mixed therein suppressed significantly ($p < 0.05$) wrinkle formation due to UVB irradiation and thus was useful in prevention of the formation of wrinkled skin and sagging skin or the formation of skin cancer. In addition, it was clear that the feed containing the diacylglyceryl ether-containing composition mixed therein suppressed the onset of cancer.

(Emphasis added).

The present specification also recites in Example 2, at page 12, lines 11-14:

Based on the test results of experiment 2, it was inferred that because the diacylglyceryl ether-containing composition showed a tendency to suppress UV erythema formation, the composition is useful in alleviation of skin redness (sunburn) or melanism (suntan).

(Emphasis added).

Thus, it is clear that the specification more than reasonably exemplifies and provides enablement for the asserted utility of the claimed invention, as demonstrated by Examples 1 and 2. Accordingly, withdrawal of the rejection is requested.

Rejection under 35 U.S.C. § 103

The rejection of claims 6-8 under 35 U.S.C. § 103 as being obvious over JP 07-082162 and Tanaka et al. (U.S. Patent No. 5,849,309) is respectfully traversed.

The JP 07-082162 reference does not describe or suggest a method of preventing or treating skin damage, comprising orally administering a composition containing the diacylglyceryl ether represented by the formula (I), as recited in present claim 5 (from which present claims 6-10 depend).

The reference merely discloses that various components used for the repair of the damaged skin are such as triglyceride of fish liver oil, e.g. hydrogenation product of a triglyceride of cod liver oil or shark liver oil and the like. (See Abstract of the reference). The triglyceride of fish liver oil is different from the diacylglyceryl ether employed in the present invention. In particular, it is understood that triglycerides have three acyl groups, while diacylglyceryl ethers have two acyl groups and one aliphatic hydrocarbon group.

The reference to Tanaka et al. does not cure the deficiencies of the JP 07-082162 reference.

Tanaka et al. only discloses a variety of cosmetic compositions and additives used as skin activators, including inorganic pigments and the like. (See column 2, lines 30-64). Tanaka et al. contains no description whatsoever of a diacylglyceryl ether. Additionally, the compounds recited in claims 1 and 6 of Tanaka et al. are clearly not the same as the diacylglyceryl ether employed in the claimed invention.

Therefore, the present claims are not obvious in view of the combined references.

Applicants further submit that claim 9, previously unacknowledged by the Office, is unobvious over the references since it relates to a diacylglyceryl ether-containing composition derived from shark liver oil not described or suggested by the references. In addition, new claim 10 is unobvious over the references, since it recites a specific species of formula (I), which is not described or suggested by the references.

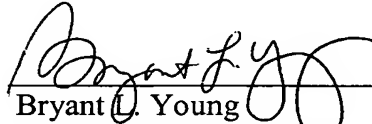
Thus, in view of the foregoing reasons, Applicants respectfully request the withdrawal of the rejections under 35 U.S.C. § 103(a).

Applicants submit that this application is now in condition for allowance and early notification of such is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

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